

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODRIGO GONZALEZ-GARCIA,

Plaintiff,

v.

BAKER, et al.,

Defendants.

No. 2:20-cv-0234 CKD P

ORDER AND

FINIDNGS AND RECOMMENDATIONS

Plaintiff is a Shasta County Jail prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. On March 11, 2020, the court screened plaintiff's complaint as the court is required to do under 28 U.S.C. § 1915A(a). The court dismissed plaintiff's complaint with leave to file an amended complaint. Plaintiff has filed an amended complaint.

Again, the court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

In his amended complaint, plaintiff appears to challenge on-going criminal proceedings. However, the allegations are mostly vague, non-sensical, and confusing. It does appear that

1 plaintiff asserts, as he did in his original complaint, that his right to a speedy trial under the Sixth
2 Amendment is being violated. Plaintiff seeks release from the Shasta County Jail and damages.
3 As plaintiff has already been informed, release from custody is not relief available in a § 1983
4 action. Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). Such relief can only be obtained in an
5 action for a writ of habeas corpus. Id. Also, to the extent plaintiff seeks damages, plaintiff is
6 informed he cannot proceed on a § 1983 claim for damages if the claim implies the invalidity of
7 his confinement. See Heck v. Humphrey, 512 U.S. 477, 487 (1994).

8 For these reasons, plaintiff's complaint must be dismissed. Considering plaintiff's
9 original complaint, the guidance provided to plaintiff upon the dismissal of plaintiff's original
10 complaint, and then the contents of the amended complaint, providing plaintiff leave to amend a
11 second time appears futile.

12 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court
13 assign a district court judge to the case.

14 IT IS HEREBY RECOMMENDED that:

- 15 1. Plaintiff's amended complaint (ECF No. 7) be dismissed for failure to state a claim
16 upon which relief can be granted: and
- 17 2. This case be closed.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen after
20 being served with these findings and recommendations, plaintiff may file written objections with
21 the court. The document should be captioned "Objections to Magistrate Judge's Findings and
22 Recommendations." Plaintiff is advised that failure to file objections within the specified time
23 waives the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.
24 1991).

25 Dated: April 21, 2020

26 
27 CAROLYN K. DELANEY
28 UNITED STATES MAGISTRATE JUDGE